

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Roger Chestnut,)	
Petitioner,)	C.A. No.: 9:09-cv-03158-RBH
)	
vs.)	
)	ORDER
)	
M. M. Mitchell,)	
Respondent.)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation.¹ In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'” (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that this petition is dismissed without prejudice and without requiring Respondent to file an answer or return.

¹ The Court does note that it is unsure as to whether Petitioner has received any of the orders that the Court has mailed to him, including the Magistrate's Report and Recommendation. When Petitioner filed this action, his address was listed as FCI-Edgefield, in South Carolina. However, the copies of the Magistrate's Report and Order directing Petitioner to notify the court in writing of any change of address were returned undelivered, with their envelope stating “not deliverable as addressed” and “unable to forward.” Out of an abundance of caution, the Court checked the Bureau of Prisons website, and it indicated on January 11, 2010 that Petitioner was currently incarcerated at FCI-Englewood in Littleton, Colorado. Accordingly, the Court instructed the Clerk's office to re-mail the Magistrate's Report to Petitioner at the Colorado address. To date, the mail has not been returned to the Court as undeliverable, and therefore it appears to the Court that Petitioner received the Report after this second mailing. However, over twenty-eight (28) days have passed since the Court mailed Petitioner the Report for a second time, and the Court still has not received objections to the Report from Petitioner.

IT IS SO ORDERED.

s/R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
February 12, 2010